

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WILLIAM C. FISHER, a single person, on  
behalf of his minor child, L.F.,

Plaintiffs,

v.

STATE OF WASHINGTON;  
WASHINGTON STATE DEPARTMENT  
OF SOCIAL AND HEALTH SERVICES;  
WASHINGTON DEPARTMENT OF  
CHILD PROTECTIVE SERVICES;  
DIVISION OF CHILDREN AND  
FAMILY SERVICES; CLIFF PETRIE;  
FELEISHA WRIGHT; and JOHN/JANE  
DOES 1-10,

Defendants.

NO. 2:16-cv-00108-SAB

**ORDER DENYING JOINT  
MOTION FOR PROTECTIVE  
ORDER**

Before the Court is parties' Joint Motion and Stipulation for Protective Order. ECF No. 11. The parties seek a protective order to protect confidential information, arguing their rights to privacy outweigh the public's interest in the material. This motion was heard without oral argument.

The product of pretrial discovery is presumptively public, though Federal Rule of Civil Procedure Rule 26(c) permits a district court to override this presumption upon a showing of "good cause." *San Jose Mercury News, Inc. v. U.S.*

1 *District Court—Northern Dist. (San Jose)*, 187 F.3d 1096, 1103 (9th Cir. 1999).  
2 Rule 26(c) provides that a “court may, for good cause, issue an order to protect a  
3 party or person from annoyance, embarrassment, oppression, or undue burden or  
4 expense.” Prior to the grant of a protective order, the moving party must certify it  
5 has “conferred or attempted to confer with other affected parties in an effort to  
6 resolve the dispute *without court action*.” Fed. R. Civ. P. 26(c) (emphasis added).

7       Where the parties agree, as here, that certain information should remain  
8 confidential, it may be prudent to enter into an agreement setting forth in writing  
9 what information shall remain private. It is unnecessary, however, for such an  
10 agreement to have this Court’s imprimatur. A court issued protective order is less  
11 necessary since Rule 5(d) was amended to only require filing discovery material  
12 actually used in support of an action. Because not all discovery material need be  
13 filed, most discovery material is not readily accessible to the public. Therefore, the  
14 primary concern regarding confidential materials is how the parties themselves  
15 handle such material. This Court will not hesitate to issue a protective order when  
16 it is necessary, however, the moving party or parties must demonstrate good cause  
17 exists and bears the “burden of showing specific prejudice or harm” that will result  
18 if no protective order is granted. *Phillips v. G.M. Corp.*, 307 F.3d 1206, 1210-11  
19 (9th Cir. 2002). In other words, the moving party must demonstrate why the parties  
20 cannot resolve the issue without court action—a standard that will generally not be  
21 met when the parties agree to the terms of a proposed protective order.

22       The motion at hand fails to demonstrate specific harm or prejudice that will  
23 result if no protective order is granted. Additionally, the parties appear to be in  
24 agreement on what material is appropriate for discovery and how it should be  
25 handled. Accordingly, the Court denies the stipulated motion for protective order.

26       The Court encourages the parties to continue cooperating with respect to the  
27 handling of potentially sensitive discovery material. The parties may, upon proper  
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1 showing tied to specific discovery material, move the Court to seal certain  
2 discovery filings.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 Parties' Joint Motion and Stipulation for Protective Order, ECF No. 11, is  
5 **DENIED.**

6 **IT IS SO ORDERED.** The District Court Executive is hereby directed to  
7 file this Order and provide copies to counsel.

8 **DATED** this 2nd day of August 2016.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

Stanley A. Bastian  
United States District Judge